

**COMMISSION ON STATE MANDATES**

980 NINTH STREET, SUITE 300  
SACRAMENTO, CA 95814  
PHONE: (916) 323-3562  
FAX: (916) 445-0278  
E-mail: csminfo@csm.ca.gov



May 12, 2006

TO: All Interested Persons

FROM: Paula Higashi, Executive Director

SUBJECT: Rulemaking Proceeding

Government Code section 17527, subdivision (g), authorizes the Commission to adopt the proposed regulations. The purpose of this rulemaking is to clarify that designees of ex officio Commission members may continue to serve on the Commission until the designation is revoked or replaced by the current constitutional officer or director. It also clarifies that an election shall be conducted as soon as practicable to fill a vacant office (chairperson or vice-chairperson) held by a public member or local elected official.

The Commission proposes to amend section 1181.4 under article 1 of the California Code of Regulations, title 2, division 2, chapter 2.5.

We invite your participation in the Commission's Rulemaking Proceeding. Enclosed is the Commission's rulemaking packet that includes the following documents:

- Commission order to initiate rulemaking proceedings
- Notice of Proposed Rulemaking
- Initial Statement of Reasons
- Text of Proposed Regulatory Action

Written comments on the proposed amendments will be accepted until **5:00 p.m. on June 26, 2006**. The Commission will hold a public hearing if it receives a written request for a public hearing no later than 15 days before the close of the written comment period. For details on public participation, please see the enclosed Notice of Proposed Rulemaking.

If you have any questions about the proposed rulemaking, please call Cathy Cruz at (916) 323-8218.

Enclosures

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

In the Matter of:

Amendments to California Code of  
Regulations, Title 2, Division 2, Chapter 2.5,  
Article 1

No. 06-1

ORDER TO INITIATE  
RULEMAKING PROCEEDINGS

*Article I Cleanup*

Pursuant to California Code of Regulations, title 2, section 1189.2, the Commission on State Mandates ("Commission") hereby adopts this order to institute rulemaking proceedings in accordance with the procedures of Government Code sections 11346.2, 11346.4, 11346.8, and 11346.9.

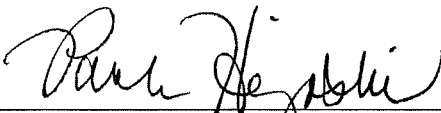
**PROPOSED REGULATORY ACTION.** The Commission proposes to amend section 1181.4 of the California Code of Regulations, title 2, chapter 2.5, division 2.

**AUTHORITY AND REFERENCE.** Government Code section 17527, subdivision (g), authorizes the Commission to adopt the proposed regulations. The purpose of this rulemaking is to clarify that designees of ex officio Commission members may continue to serve on the Commission until the designation is revoked or replaced by the current constitutional officer or director. It also clarifies that an election shall be conducted as soon as practicable to fill a vacant office (chairperson or vice-chairperson) held by a public member or local elected official.

**WRITTEN COMMENT PERIOD.** Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The Commission will only consider written comments received at the Commission's office by 5:00 p.m. on June 26, 2006. Submit comments to:

Cathy Cruz, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Phone: (916) 323-3562 FAX: (916) 445-0278  
Email: cathy.cruz@csm.ca.gov

**PUBLIC HEARING.** The Commission will hold a hearing on June 26, 2006, if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than June 9, 2006.

Date: April 26, 2006 By:   
Paula Higashi, Executive Director

TITLE 2. ADMINISTRATION  
DIVISION 2. FINANCIAL OPERATIONS  
CHAPTER 2.5. COMMISSION ON STATE MANDATES

**NOTICE OF PROPOSED RULEMAKING**

The Commission on State Mandates (Commission) proposes to adopt the regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

The Commission has not scheduled a public hearing on this proposed action. However, the Commission will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at **5:00 p.m. on June 26, 2006**. The Commission will consider only comments received at the Commission offices by that time. Submit comments to:

Cathy Cruz, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

**AUTHORITY AND REFERENCE**

Government Code section 17527, subdivision (g), authorizes the Commission to adopt the proposed regulations. The purpose of this rulemaking is to clarify that designees of ex officio Commission members may continue to serve on the Commission until the designation is revoked or replaced by the current constitutional officer or director. It also clarifies that an election shall be conducted as soon as practicable to fill a vacant office (chairperson or vice-chairperson) held by a public member or local elected official.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Commission is a seven-member quasi-judicial body authorized to resolve disputes regarding the existence of state-mandated local programs (Gov. Code, § 17500 et seq.) and to hear matters involving applications for a finding of significant financial distress (Welf. & Inst. Code, § 17000.6). The Commission proposes to amend section 1181 under article 1 of the California Code of Regulations, title 2, division 2, chapter 2.5.

Section 1181.4 specifies the duties of officers, the time of election, that an election shall be conducted as soon as practicable to fill a vacant office, and that an election takes effect immediately. The Commission proposes to rename and amend this section to clarify the function of designees of ex officio Commission members and to clarify that an election shall be

conducted as soon as practicable to fill a vacant office (chairperson or vice-chairperson) held by a public member or local elected official.

### **DISCLOSURES REGARDING THE PROPOSED ACTION**

The Commission has made the following initial determinations:

Mandate on local agencies and school district: None

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None

Other non-discretionary cost or savings imposed on local agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None

Significant effect on housing costs: None

Cost impacts on a representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

*Small Business Determination:* Because the Commission has no jurisdiction over small businesses, the proposed regulatory action will have no impact on small businesses.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

## **CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Cathy Cruz, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Telephone: (916) 323-3562

The backup contact person for these inquiries is:

Nancy Patton, Assistant Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Telephone: (916) 323-3562

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. Cruz at the above address.

### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the Commission order to initiate rulemaking proceedings. Copies may be obtained by contacting Ms. Cathy Cruz at the address or phone number listed above. All persons on the Commission’s interested persons mailing list will automatically be sent a copy of the rulemaking file.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, and holding a public hearing, if necessary, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Commission adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Ms. Cathy Cruz at the address indicated above. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Cathy Cruz at the above address.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at [www.csm.ca.gov](http://www.csm.ca.gov).

## **INITIAL STATEMENT OF REASONS**

### **SPECIFIC PURPOSE OF THE PROPOSED ACTION**

The Commission is a seven-member quasi-judicial body authorized to resolve disputes regarding the existence of state-mandated local programs (Gov. Code, § 17500 et seq.) and to hear matters involving applications for a finding of significant financial distress (Welf. & Inst. Code, § 1700.6). The purpose of this rulemaking is to clarify that designees of ex officio Commission members may continue to serve on the Commission until the designation is revoked or replaced by the current constitutional officer or director. It also clarifies that an election shall be conducted as soon as practicable to fill a vacant office (chairperson or vice-chairperson) held by a public member or local elected official.

### **ARTICLE 1. GENERAL**

#### **SECTION 1181.4. DESIGNEES AND OFFICERS**

##### *Specific Purpose of the Regulation*

The section specifies the duties of officers, the time of election, that an election shall be conducted as soon as practicable to fill a vacant office, and that an election takes effect immediately.

##### *Necessity*

The proposed changes rename and amend this section to clarify the function of designees of ex officio Commission members and to clarify that an election shall be conducted as soon as practicable to fill a vacant office (chairperson or vice-chairperson) held by a public member or local elected official.

### **MATERIAL RELIED UPON TO DEVELOP REGULATIONS**

No technical documents, empirical studies, reports or documents have been relied upon to develop these proposed regulations.

### **ALTERNATIVES TO THE PROPOSED REGULATORY ACTIONS**

The Commission has not identified any reasonable alternatives to the proposed regulatory actions. The Commission has no jurisdiction over small businesses. Therefore, there is no adverse impact on small businesses.

### **ADVERSE ECONOMIC IMPACT ON ANY BUSINESS**

The Commission has made an initial determination that there is no adverse economic impact on any business because the Commission does not have jurisdiction over businesses.

PROPOSED AMENDMENTS TO:  
  
CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 2. FINANCIAL OPERATIONS  
CHAPTER 2.5. COMMISSION ON STATE MANDATES

**Article 1. General**

**§ 1181.4. Designees and Officers.**

~~(a) Commission members as defined by Government Code Section 17525 shall be officers. If the Controller, the Treasurer, the Director of the Department of Finance, or the Director of the Office of Planning and Research designates a deputy to represent him or her, that designee may continue to serve on the commission until the designation is revoked or replaced by the current constitutional officer or director.~~

(b) Commission members as defined by Government Code Section 17525 shall be officers.  
Duties of Officers:

(1) Duties of Chairperson. The chairperson shall preside over all meetings of the commission at which he or she is present. He or she has all the rights and responsibilities of the other members. He or she has the right to introduce motions or proposals and to speak and vote on them while he or she is presiding. The chairperson has the power to appoint one or more members of the commission as a subcommittee to investigate and report to the commission on any matter within the scope of the purposes of the commission or to form advisory groups to assist the commission or its subcommittees in fulfilling their purposes.

(2) Duties of Vice Chairperson. The vice chairperson shall preside over all meetings of the commission at which the chairperson is not present. He or she has all the rights and responsibilities of the other members. He or she has the right to introduce motions or proposals and to speak and vote on them while he or she is presiding.

(c) Time of Election. The commission shall elect a chairperson and vice chairperson at the January meeting of each year. In the calendar year following the statewide election of constitutional officers, the commission may postpone its election. The commission may authorize the executive director to conduct the election portion of its meeting.

(d) Vacancy. If an office (chairperson or vice-chairperson) held by a public member or local elected official becomes vacant, an election shall be conducted as soon as practicable to fill the vacant office.

(e) When Election Takes Effect. An election shall take effect immediately.

Note: Authority cited: Sections 17500 and 17527(g), Government Code. Reference: Sections 7.5, 7.6, 7.9, and 17528, Government Code.